

II. REMARKS

A. Claim Rejections under 35 U.S.C. § 112, ¶ 1

Claims 1-6, 8-26, 28-46, and 48-60 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicants respectfully assert that the rejection, and its rationale, are improper for the following reasons.

In the rationale from the Office Action, it is asserted that “Applicant has not disclosed, for example, a thermal fax machine which is capable of contacting at least one server (a server with a fax capability like commercially available IBM AS/4000 which can run applications as well as fax server) is sent a prompt from the sender to input said record identifier because the telephone line is busy with communication between the thermal fax machine and the server, and also, how does the sender know the record identifier associated with the real estate record.”

Since the independent claims have been amended to amend the language objected to by the Examiner, this rejection is now moot. It is respectfully suggested that the amended claim language is supported in the specification at pages 48-49 with reference to Figures 10a and 10b.

B. Claim Rejections under 35 U.S.C. § 112, ¶ 2

Claims “1-6, 8-26, 28-46, and 48-60” were rejected under 35 U.S.C. § 112, second paragraph, as being vague and indefinite, for example, allegedly because Applicants have not positively claimed how information received is associated with real estate. While Applicants are of the opinion that the claims are, in fact, definite as originally filed, Applicants have amended the claims to further clarify the claimed invention.

Applicants assert that no new matter has been added, that the claims particularly point out and distinctly claim the subject matter that Applicants regard as the invention, and that the

amended independent claims as well as the claims depending therefrom are allowable. Accordingly, reconsideration and withdrawal of the rejection of claims “1-6, 8-26, 28-46, and 48-60” under 35 U.S.C. § 112, ¶ 2 is respectfully requested.

C. Claim Rejections Under 35 U.S.C. § 103

The Office Action rejected claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 103 as being unpatentable over Raveis, U.S. Publication 2002/0049624, in view of the teachings of Watanabe, JP Patent 2001-274946. Applicants respectfully traverse each of the 35 U.S.C. § 103 rejections set forth herein in view of the claims as amended and for the reason that Applicants’ invention is patentably distinguishable, and not an obvious improvement, over the cited references.

1. Incomplete Obviousness Rejection

The Office Action does not present a complete obviousness rejection. According to MPEP § 706.02(j), a complete obviousness rejection requires an Office Action to set forth the following elements:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate;

(B) the difference or differences in the claim over the applied reference(s);

(C) the proposed modifications of the applied references necessary to arrive at the claimed subject matter; and

(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

Here, the Office Action does not set forth proposed modifications of the applied references. The Office Action merely asserts that it would be obvious “to modify Raveis as taught by Watanabe...” But Watanabe does not even mention Raveis, much less teach any modifications to Raveis. Notably, the Office Action does not propose any specific modifications of each of the Raveis and Watanabe references that would be necessary to successfully combine the references to arrive at the claimed subject matter. Applicants assert that this failure is evidence that such a combination is not reasonably desirable or feasible, which militates against the obviousness rejection of Applicants’ invention. In any case, the Office Action does not adequately communicate the basis for the obviousness rejection such that Applicants have not been given a full and fair opportunity to develop a reply. In other words, Applicants respectfully assert that the Office Action does not clearly and fully explain the rationale for the obviousness rejection. Therefore, Applicants respectfully assert that making the next Office Action final would be improper.

2. No *Prima Facie* Case of Obviousness

The Office Action does not set forth a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness according to MPEP § 706.02(j), the cited references must teach or suggest all of Applicants’ claim limitations, and there must be some suggestion to modify or combine reference teachings and a reasonable expectation of success in doing so.

a. Cited References Are Missing Elements Of Applicants’ Invention

i. Combination Of Raveis And Watanabe References

Foremost, it is apparent that the cited references do not teach or suggest all of Applicants’ claim limitations. Even assuming, *arguendo*, that there is a suggestion or motivation to combine

the cited references, there are fundamental differences between the claimed invention and the individual cited references and any combination thereof, such that all of the claim limitations of Applicants' invention are not met by Raveis or Watanabe or any combination thereof.

Raveis was cited by Applicants upon filing of their application, and is directed to the shortcomings of business models for real estate companies that fail to maintain customer relationships and leave a homeowner trying to manage repairs and improvements with little more than a telephone book for assistance. (§ 0014) Raveis teaches a solution to such shortcomings in the form of an improved system and method of using a distributed computing network to facilitate maintaining customer relationships and information appertaining thereto. (§ 0016) In accordance with such teachings, Raveis discloses a method including generating a customer record including fields for entering an estimated completion date and an actual completion date for each of a plurality of stages of a real estate transaction. According to the method, access to a customer and a real estate agent is provided to the customer record over the distributed computing network to facilitate entry of estimated and actual completion dates for the stages of the real estate transaction. Also, a transaction coordinator is provided access to the customer record through a server based application to facilitate the coordinator's entry of estimated and actual completion dates for stages of the real estate transaction in appropriate fields of the customer record. (§ 0018)

Watanabe is directed to labor burdens and compromised conservation goals because a document to be faxed must first be printed out and then transmitted using a fax machine (6) to transmit the document to a destination fax machine (7). (Page 1, Summary; Fig. 5) As a solution to this problem, Watanabe teaches transmitting a special cover sheet having receiver ID

information and being attached to the document to be faxed. In accordance with these teachings, Watanabe discloses an electronic filing method. First, a special cover sheet is set into an image scanner (30) (Fig. 1; Fig. 2, ST1; ¶ 0024). Second, image information on the special cover sheet is acquired into an electronic terminal (23) (Fig. 1; Fig. 2, ST2; ¶ 0025). Third, a communications document (e.g. letter, etc) is imaged at the same time as the special cover sheet (Fig. 3, ST3; ¶ 0025). Fourth, a client using the electronic terminal outputs a transmission request to a fax server (30) (Fig. 1; Fig. 2, ST4; ¶ 0026). Fifth, a reply is received affirming acceptance of the transmission (Fig. 2, ST5; ¶ 0026). Sixth, image information from the special cover sheet is attached to the image information on the communications document, and then output to the fax server (Fig. 2, ST6; ¶ 0026). Seventh, the fax server transmits the image information to a DSP electronic filing device (12) (Fig. 1; Fig. 2, ST7; ¶ 0026). Eighth, the image information is received (Fig. 2, ST8; ¶ 0027). Ninth, the fax server executes a routine for decoding the receiver ID information scripted on the special cover sheet (Fig. 2, ST9; ¶ 0027). Tenth, the fax server specifies a document storage area for a receiver (client) at an electronic filing server (29) and stores the image information of the communications document in the document storage area (Fig. 1; Fig. 2, ST10; ¶ 0028). Eleventh, the fax server issues a reception notice to an electronic terminal (26) being operated by the receiver (client) (Fig. 1; Fig. 2, ST11; ¶ 0029).

Applicants' invention is directed to the problems associated with a real estate transfer process, including inability to quickly and easily associate documentation with respective records in a database via email and/or fax transmissions from multiple locations. Accordingly, Applicants teach automating the process of transferring real estate. According to an exemplary

fax embodiment, Applicants disclose that a real estate record is created, and a record identifier is assigned to the real estate record. Also, information is received from any fax source, and a sender of the information is prompted to input the record identifier into the fax source. The information is associated with the real estate record using the record identifier, and the information is stored in association with the real estate record. Other exemplary embodiments are disclosed including direct entry and email embodiments.

Applicants' amended independent claims 1, 21, and 41 recite, *inter alia*, assigning a record identifier to a real estate record, receiving said record identifier into said fax source from a user, and associating information received from the fax source to a real estate record using the record identifier.

The Office Action generally alleges that Raveis suggests the claimed invention of claims 1, 21, and 41 except for receiving information from facsimile equipment, which the Office Action further alleges is disclosed by Watanabe. The Office Action also alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Raveis "as taught by Watanabe" to electronically file documents received from parties involved in a transaction. (see Office Action page 6).

The Applicants respectfully disagree with the above allegations because there are significant differences between Applicants' invention and Raveis, or Watanabe, or any combination thereof. First, out of the many limitations in Applicants' claims 1, 21, and 41, the Office Action sets forth only that Raveis teaches creating a real estate record on a server and receiving information from a plurality of sources. Moreover, Raveis and Watanabe fail to disclose, teach, or suggest, assigning a record identifier to a real estate record and associating

received information to the real estate record using the record identifier. Nowhere is there any mention in either reference of record identifiers, assigning a record identifier to a real estate record, receiving said record identifier into said fax source from a user, and associating the real estate record to the received information using the record identifier. The Office Action cites ¶ 0009 of Watanabe, but a review of this paragraph reveals that Watanabe recites a “receiver ID” to identify “receivers”. But Watanabe does not define a receiver or a receiver ID in any way, shape, or form. Watanabe’s receiver ID may or may not be an identification but, in any case, is not an identifier of a record per Applicants’ invention.

Therefore, notwithstanding the fact that the combination of the Raveis and Watanabe references as suggested by the Office Action is not legally justified as will be discussed below, Applicants’ claims would still have novel and unobvious physical features over the proposed combination. In other words, any attempt at combining the cited references does not disclose all of the claimed features of Applicants’ invention and, therefore, the combination would necessarily constitute a different function and different result than the claimed invention.

b. No Basis to Combine the Cited References And No Reasonable Expectation Of Success In Doing So

One of ordinary skill in the art would have no basis for combining the teachings of Raveis and Watanabe in order to attempt to replicate Applicants’ invention because, for example, there is no teaching, suggestion or motivation in the art to do so.

First, the Office Action asserts that the motivation to combine Raveis and Watanabe is for the purpose of electronically filing documents received from parties in a transaction. But, this alleged motivation is a stated object of Watanabe, and such object is apparently satisfied using the teachings of Watanabe. Since this object is already satisfied by Watanabe’s own

teachings, it is impossible to see how such a satisfied object could be the motivation for modifying Raveis for use with Watanabe.

Second, the solutions taught by Raveis and Watanabe are directed to problems totally different than that of Applicants' invention. For example, Raveis is directed to the problem of shortcomings of business models for real estate companies that fail to maintain customer relationships and that leave a homeowner trying to manage repairs and improvements with little more than a telephone book for assistance. Also, the teachings of Watanabe are a solution for the problem of having to first print out a document to be faxed before transmitting the document using a fax machine.

In contrast, Applicants' teachings are directed to a problem not even recognized in the cited references when considering all the cited references singularly or collectively. Not a single applied reference mentions the potential problem of the inability to quickly and easily associate documentation with respective records in a database via, for example, email and/or fax transmissions from multiple locations. Absent a recognition of this problem, it would be impossible for its solution to be obvious to any one, and the cited references cannot possibly suggest, singularly or in combination, a solution as novel as Applicants' invention.

Third, Watanabe teaches away from Applicants' invention. Whereas Watanabe teaches a complex multi-step process of scanning a special cover sheet and a document to be faxed, Applicants teach an elegant one step process for input of a record identifier. More specifically, Watanabe teaches transmitting a special cover sheet having receiver ID information and being attached to a document to be faxed, wherein the special cover sheet is set into an image scanner (ST1), and image information on the special cover sheet is acquired into an electronic terminal

(ST2). In contrast, Applicants teach receiving said record identifier into said fax source from a user. Watanabe's multi-step use of a separate special cover sheet is the opposite of Applicants' single step use of a record identifier.

Thus, not only does Raveis and Watanabe not meet all of Applicants' claim limitations, the Watanabe reference essentially teaches the opposite of Applicants claims. As stated in the MPEP, if any of the cited references teach away from the suggested combination, or teach away from the claims, or render any of the cited references unsatisfactory for their intended purpose, the claimed invention is distinguishable over the combination of cited references. See MPEP § 2145(X)(D)(1-2); 2141.02(VI) A *prima facie* case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997).

Fourth, one of ordinary skill in the art would not attempt to combine the references to yield the Applicants' invention in the manner suggested in the Office Action, because the suggested combination would result in a nonfunctional system. The resulting effect of the combination would be a method of tracking real estate transactions including generating a customer record with entry fields for entering estimated completion and actual completion dates for each of a plurality of stages of a real estate transaction and then, somehow, associating therewith received fax communications having a special cover sheet having receiver ID information for identifying receivers.

Exactly what is to be done with Watanabe's faxed communication is certainly not clear from the teachings of Raveis, Jr., wherein each of several users, i.e. real estate agent, transaction coordinator, and customers access a real estate tracking system for purposes of entering

estimated dates and actual completion dates for different stages of a real estate transaction so that progress reports with respect to the overall process may be provided to a customer as well as facilitate managing customer relations and information pertaining thereto. More specifically, there is absolutely no discussion as to how Raveis would accommodate Watanabe's faxed communication, and it is impossible to understand how Watanabe's faxed communication could be entered into the date tracking records of Raveis, Jr. in the form of an estimated or actual completion date or in any other form.

The Office Action lacks a proper *prima facie* showing of obviousness because the Office Action does not provide any teaching, suggestion, or motivation for combining the cited references and does not provide a proper reason to support the proposed combination. In fact, it is only through Applicants' own teachings and disclosure that one of ordinary skill in the art would appreciate the need for a combination of the elements provided according to Applicants' claims in order to solve the problems associated with the inability to quickly and easily associate documentation with respective records in a database via, for example, email and/or fax transmissions from multiple locations. In other words, but for Applicants' disclosure, there is no teaching, suggestion, or motivation whatsoever to combine Raveis and Watanabe in any way in order to obviate Applicants' invention. Accordingly, Applicants respectfully assert that the Office Action is an example of hindsight reconstruction in an attempt to obviate Applicants' invention after having the benefit of reading Applicants' disclosure.

3. Summary

Applicants' invention is thus an unobvious improvement over the cited references and not an obvious modification or combination of any of the references of record in this application.

When viewed singularly or collectively, none of the cited references disclose, teach, or even suggest assigning a record identifier to a real estate record, prompting a sender of information to input a record identifier into a fax source, and associating information received from the fax source to a real estate record using the record identifier and, in fact, Applicants perform this for the first time. Thus, independent claims 1, 21, and 41 are not rendered obvious by any of the cited references. Under principles of claim dependency and for at least the reasons stated above, Raveis and Watanabe do not render obvious any of the dependent claims either. Therefore, reconsideration and withdrawal of the § 103 rejections are respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicants respectfully submit that the pending independent and dependent claims are in proper form, define patentably over the cited references, and are all allowable. Applicant, therefore, respectfully requests that the Examiner's objections and rejections under 35 U.S.C. §§ 101, 103, and 112 be reconsidered and withdrawn and that a formal and timely Notice of Allowance of the application be issued.

In view of the Final Office Action, every attempt has been made to place the claims in condition for allowance and it is respectfully asserted that there are no further issues, formal or substantive, that remain for prosecution. Formal allowance of the application is, therefore, respectfully solicited. In the event the Examiner is not persuaded of the patentability of the claims he is respectfully requested to enter the amendment for purposes of appeal.

The Commissioner is hereby authorized to charge any deficiency in fee associated with this amendment to the undersigned's Deposit Account No. 22-0212. A duplicate of this page is included.

If the Examiner has any questions with respect to any matter now of record, Applicants' attorney may be reached at (586) 739-7445.

Respectfully submitted,

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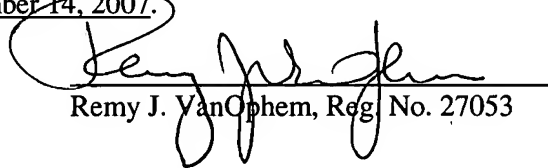
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